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EXAMINER

STERRETT, JONATHAN G

ART UNIT

PAPER NUMBER

3623

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/941,252

Applicant(s)

CLARK ET AL.

Examiner

Jonathan G. Sterrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11-17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11-17 and 19-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. In view of the appeal brief filed held on November 9, 2006, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Summary***

2. This **Non-Final Office Action** is responsive to applicant's amendment filed November 11, 2006. **Claims 1, 3-9, 11-17 and 19-24** are pending in the application.

### ***Response to Arguments***

3. The applicants arguments regarding claims 1, 9 and 17 with respect to disregarding a voting message have been fully considered but are moot in view of new grounds of rejection. The remaining applicant's arguments are not

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persuasive.

4. The applicant argues with respect to Claims 1, 9 and 17 on page 9 that Herz does not teach compiling a list that includes a plurality of authorized voters.

The examiner respectfully disagrees.

Herz teaches in column 5 line 50-53 that a list of users' target profile summaries is provided to relevant servers for the purposes of contacting them for various purposes, including soliciting feedback. This list is essentially a list that includes authorized voters, because it represents users that will be solicited for feedback.

5. The applicant argues with respect to Claims 1, 9 and 17 on page 10 that Herz does not teach sending a voter data list to a mail forwarding service.

The examiner respectfully disagrees.

Herz teaches a proxy server (see column 5 line 54-58) which acts as a mail forwarding service to protect the identity of users that are sending and receiving messages from servers that are presenting target objects to the user.

6. The applicant argues with respect to Claims 1, 9 and 17 on page 11 that Herz does not teach sending vote request to one or more authorized voters.

The examiner respectfully disagrees.

Herz teaches soliciting active feedback, where the user is asked to express their preference in regards to providing feedback about target objects.

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These target objects can be anything of interest to the user that can be transmitted over the internet (see column 6 line 23-27 as to descriptors for target objects, including stories, movie descriptors, prices of products – also column 5 line 9-12 for some typical target objects). The users are asked to provide ratings or feedback on the target objects, i.e. the user is sent a vote request (see column 18 line 38-40). This feedback can be displayed to the user as the user selects a rating for the object (see column 18 line 18-24). The expressing of a preference, i.e. a vote, by a user in response to a request is thus fully taught by Herz. This expressing is 'voting' because the user is expressing a preference for a particular target object.

7. The applicant argues with respect to Claims 1, 9 and 17 on page 11 that Herz does not teach where the message received from the user is anonymous.

The examiner respectfully disagrees.

Herz teaches in column 5 line 55-60 that the proxy server removes the identity of the message from the user so that the true identity of the user is protected. The user is anonymous because a pseudonym is the only way that they are identified. Further evidence that users of the system are anonymous with respect to their identity is provided in that Herz teaches in column 5 line 60-65 that users can receive rewards for providing their identity to specific marketers or advertisers. If their identity is hidden before and they can choose to reveal it to receive a reward from an advertiser, previously their messages must have been anonymous because their true identity was concealed.

8. The applicant argues with respect to Claims 1, 9 and 17 on page 12 that Herz does not teach determining whether the user is authorized to vote.

The examiner respectfully disagrees.

Herz teaches that users of the system who are attempting to provide feedback have their electronic credentials checked to ensure that the message is from someone who is authorized to provide feedback (i.e. vote) – see column 35 line 54-56 and column 35 line 30-35. Column 36 line 23-36 discusses users who have their pseudonyms validated, i.e., they are authorized to communicate through the proxy server, including to send active feedback (i.e. voting messages).

9. The applicant argues with respect to Claims 1, 9 and 17 on page 12 that Herz does not teach removing an identity from an electronic voting message in response to determining that a client is authorized to vote.

The examiner respectfully disagrees.

Herz teaches the use of a proxy server. The proxy server validates that a message is from an approved or validated user using a pseudonym and cryptographic techniques. This is done before the message is passed on as anonymous. As taught by Herz, this is done to protect the identity of a user from servers associated with marketers or advertisers. The proxy server taught by Herz does not forward messages and utilize the cryptographic techniques on messages that are determined to not be from authorized users – see column 6

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line 45-52.

10. The applicant argues with respect to Claims 1, 9 and 17 on page 13 that Herz does not teach disregarding a voting message in response to determining that a client is not authorized to vote, however this argument is moot in view of new grounds of rejection.

11. The applicant argues with respect to Claims 3, 5, 11, 13, 19 and 21 on page 14 that Herz does not teach sending a confirmation message in response to the determination. This argument hinges on the logic that since Herz does not teach a determination, it can't teach sending a confirmation.

The examiner respectfully disagrees.

However, as discussed above, Herz' teachings require a determination because the proxy server system requires determining who a message is coming from in order to process it and forward it successfully.

12. The applicant argues with respect to Claims 5, 13 and 21 on page 14 that Herz does not teach using a freeform comment.

The examiner respectfully disagrees.

However, as discussed above, Herz clearly teaches soliciting feedback (i.e. votes) from various users regarding target objects. The target objects can be anything available on the internet that is of interest to a user. Official Notice was taken that feedback (i.e. votes or an individual vote) in surveys can include a

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freeform comment, since it is known in the art that surveys include solicitation of freeform comments.

13. The examiner notes that on page 6-7 of the final office action of 3-29-06, Official Notice was taken with regards to confirmation messages. Since the Official Notice was not traversed, it is taken to be admitted prior art.

14. The examiner notes that on page 7 of the final office action of 3-29-06, Official Notice was taken with regards to freeform comments as part of surveys and voting. Since the Official Notice was not traversed, it is taken to be admitted prior art.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 1, 4, 8, 9, 12, 16, 17, 20 and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Herz US 6,460,036** (hereinafter **Herz**)

Regarding **Claim 1**, Herz teaches:

**compiling a voter data list that includes a plurality of authorized voters;**

column 48 line 27-30, a list of users may be compiled that includes a list of authorized users. The purpose of compiling the list is to sell it to companies who are wishing to conduct market research or voter research using the list of voters where the list has relevant demographic information.

**sending the voter data list to a mail forwarding service**

column 32 line 19-24, column 32 line 63-65, the list of authorized users (i.e. voters) is provided to the mail forwarding service, where the mail forwarding service restricts communication based on the specifications (i.e. requirements) of the individual users. See also Column 5 line 50-53, a list of target profiles of users is provided to servers (i.e. the proxy server of column 5 line 55-60) so that

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the anonymity of the person is maintained towards the other servers that match target objects with users.

**wherein the mail forwarding service sends one or more  
vote requests to one or more of the plurality of authorized voters;**

column 17 line 35-40, the users are presented with articles to review (i.e. target objects) in an active way. This solicitation is a vote request, because the users are being polled to express their preferences (i.e. voting).

Column 18 line 37-40, users are presented with information where active feedback is solicited (i.e. votes). The examiner interprets this passage to mean the user is receiving an electronic message from the forwarding server anonymously.

**receiving the electronic voting message from a client;**

column 18 line 37-40, users provide active feedback on items. The examiner interprets this feedback to be a voting message. –see also column 18 line 19-21, here the user is providing active feedback electronically, i.e. an electronic voting message.

**determining, based on the voter data list, whether the  
client is authorized to vote.**

Column 35 line 54-56, the pseudonym associated with an anonymous email is provided with a credential to validate that the message is authorized, i.e. the user is authorized to vote.

**in response to determining that the client is authorized to  
vote, performing the following:**

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**removing an identity of the client from the electronic voting message, wherein the removing results in an anonymous message; and**

column 35 line 25-30, the identity of the clients is removed from the messages, between both users, to result in an anonymous message.

**identifying one or more votes in the anonymous message and**

Column 18 line 37-40, users are presented with information where active feedback is solicited (i.e. votes). The feedback produced would include one or more votes in the anonymous message.

Herz does not teach disregarding the electronic voting message in response to determining that the client is not authorized to vote, because the list of user's target profile summaries (i.e. the list of authorized voters) by definition does not include users who are unauthorized users.

Herz's invention is designed to provide for authorization and security by validating the identity of users who are communicating messages. This functionality is provided using cryptographic techniques and a proxy server to validate the identity of a user as a part of ensuring anonymity of that user in processing their feedback to other servers.

However, the practice of disregarding a message or communication because it is not authorized is old and well known in the art, because the

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validation of authorization prevents unauthorized users from communication.

This practice enhances security because it prevents the abuse of the system (e.g. hackers or spam).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Herz, regarding providing for pre-authorization of users and validating that identity before forwarding their electronic voting message, to include the step of disregarding their message if they were determined not to be authorized, because it would prevent unauthorized users from communicating and thus enhance network security.

Regarding **Claim 4**, Herz discloses:

**wherein the determining further comprises: retrieving the identity of the client; and comparing the identity of the client to one or more of the plurality of authorized voters retrieved from the voter data list.**

Column 36 line 45-50, the identity of the user (i.e. their pseudonym) is stored in a data record with a random binary number to validate the pseudonym.

Column 35 line 23-27, the registry of validated pseudonyms allows users (i.e. clients) to communicate with information providers and vendors; i.e. an electronic message from a user is determined to be authorized based on comparing it to the one or more plurality of authorized pseudonyms (i.e. authorized voters) retrieved from the registry (i.e. the voter data list).

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Regarding **Claim 8**, Herz discloses:

**wherein the electronic message is selected from the group consisting of a phone-in message, a private client email message, a public client email message, a hypertext transfer protocol message, a computer network message, an Active X message, and a Java message.**

Column 35 line 20-25, the anonymous message is an email message.

Column 18 line 38-40, the articles shown to a user for feedback generate an electronic message. Since the articles are presented to the user in the context of their using the internet, the examiner interprets the articles that are presented to be in html form, with the active feedback described to also be in html form.

**Claims 9, 12, 16, 17, 20 and 24** recite limitations similar to those addressed by the rejection of **Claims 1, 4 and 8** above, and are therefore rejected under the same rationale.

17. **Claims 3, 5, 11, 13, 19 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Herz US 6,460,036** (hereinafter **Herz**)

Regarding **Claim 3**, Herz teaches providing for voting via an anonymous proxy server and screening messages, including votes and request for votes between users and requesters (see also column 63 line 54-56), but does not teach:

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**sending a confirmation message to the client, the confirmation message including a summary of the determination.**

However, providing confirmation messages regarding a summary of a determination is old and well known in the art of communication. This provides for the user to receive notification (i.e. provide assurance) that their message has been received.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Herz, regarding soliciting and receiving anonymous feedback from users, to include the step of providing a confirmation message to those users who provided feedback, so the user would receive assurance their message had been received.

Regarding **Claim 5**, Herz discloses wherein freeform comments may be extracted from forum posts (see column 62 line 34-37) and where, as noted above, users may provide active feedback and voting regarding specific items, Herz does not teach where the vote includes a freeform comment as per:

**wherein one of the votes includes a freeform comment**

However Official Notice is taken that using freeform comments as part of surveys and voting is old and well known in the art. Freeform comments in a survey allow the user to provide additional feedback beyond what is actually

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covered in the survey and thus provide useful additional feedback.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Herz, regarding soliciting and receiving anonymous feedback from users, to include the step of providing a freeform comments in voting feedback from a user, because it would allow the user to provide useful additional feedback beyond what is covered in the survey.

**Claims 11, 13, 19 and 21** recite limitations similar to those addressed by the rejection of **Claims 3 and 5** above, and are therefore rejected under the same rationale.

18. **Claims 6, 7, 14, 15, 22 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Herz US 6,460,036** (hereinafter **Herz**) in view of **Bayer US 6,311,190** (hereinafter **Bayer**).

Regarding **Claim 6**, Herz teaches users providing feedback on articles and that the feedback can be used in voter research, however Herz does not teach counting votes as per:

**modifying a total number of votes, the modifying further including:  
adding the one or more votes to the total number of votes.**

Bayer teaches:

**modifying a total number of votes, the modifying further including:**

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**adding the one or more votes to the total number of votes.**

Column 3 line 7-13, one or more votes is added to the total number of votes in the course of conducting a survey.

Both Bayer and Herz address obtaining active feedback (i.e. voting) from users and thus both Bayer and Herz are analogous art.

Bayer teaches that summing votes electronically as they are received allows users to immediately see the results from their voting, which increases the survey participant's satisfaction (column 1 line 35-40).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Herz, regarding soliciting and receiving anonymous feedback from users, to include the step counting a total of votes as the votes are received from users, as taught by Bayer, because it would increase the survey participant's satisfaction.

Regarding **Claim 7**, Herz does not teach:

**sending the total number of votes to a receiving server, wherein the receiving server is adapted to include the total number of votes with other received votes.**

Bayer teaches:

**sending the total number of votes to a receiving server, wherein the**

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**receiving server is adapted to include the total number of votes with other received votes.**

Column 3 line 7-9, the network server (i.e. a receiving server) receives the votes to include the total number of votes with other received votes (in this case the other received votes are votes from other countries used to create a histogram for comparing each country's vote with each other).

Both Bayer and Herz address obtaining active feedback (i.e. voting) from users and thus both Bayer and Herz are analogous art.

Bayer teaches that summing votes electronically as they are received by on a country by country basis (i.e. other received votes) allows users to compare their results with voters from other countries (column 3 line 10-15).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Herz, regarding soliciting and receiving anonymous feedback from users, to include the step of including the total number of votes with other received votes as taught by Bayer, because it would allow the voting participant to compare their results with voters from other countries via a histogram.

**Claims 14, 15, 22 and 23** recite limitations similar to those addressed by the rejection of **Claims 6 and 7** above, and are therefore rejected under the

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same rationale.

**Conclusion**

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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